

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CHRISTOPHER BROOKS,

Petitioner,

v.

Case No. 2:08-cv-51
HON. R. ALLAN EDGAR

GREGG MCQUIGGIN,

Respondent.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on June 9, 2010. The Report and Recommendation was duly served on the parties. The Court has received objections from petitioner. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Petitioner claims that he was unable to exhaust his grievances because he was indigent and could not pay the State court filing fees. The fact that petitioner was indigent does not give him an automatic pass regarding the exhaustion requirement. The State courts decide what the filing fee should be for indigent prisoners who bring lawsuits in the State courts. Petitioner has not indicated that he attempted to explain to the court that he was unable to pay the partial filing fee in the State court. Petitioner failed to exhaust his State court remedies prior to filing this habeas action challenging his misconduct conviction in the prison.

Moreover, petitioner has failed to show that any of his Constitutional rights were violated by the hearing officer in conducting the misconduct hearing or from his conviction arising from his prison misconduct.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that the petition for writ of habeas corpus will be dismissed. A certificate of appealability is DENIED as to each issue raised by the petitioner in this application for habeas corpus relief because petitioner has failed to make a “substantial showing of a denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

Dated: 9/13/2010

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE